



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JULY 11, 2005

III.3
ITEM NUMBER:

SUBJECT: CONDITIONAL USE PERMIT PA-04-26
2880 MESA VERDE DRIVE EAST AND 1500/1534 ADAMS AVENUE

DATE: JUNE 30, 2005

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to allow the use of off-street parking spaces within the parking lot for First Church of Christ Scientist located at 2880 Mesa Verde Drive East for students of the Paul Mitchell Academy located at 1500 and 1534 Adams Avenue.

APPLICANT

The applicant is Steven Frost, representing Paul Mitchell Academy and Patricia Bauer of First Church of Christ Scientist. Tom Sparks is the owner of the retail center in which the Paul Mitchell Academy is located.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.

MEL LEE, AICP
Senior Planner

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

PLANNING APPLICATION SUMMARY

Location: 2880 Mesa Verde Dr. E. and 1500/1538 Adams Ave. Application: PA-04-26

Request: Conditional use permit to allow the use of 90 off-street parking spaces within the parking lot for First Church of Christ Scientist for students of the Paul Mitchell Academy at 1500 and 1534 Adams Avenue

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone:	I&R (Church), C1 (Retail Center and School)	North:	NA
General Plan:	Public/Institutional General Commercial	South:	NA
Lot Dimensions:	NA	East:	NA
Lot Area:	NA	West:	NA
Existing Devs.:	Church (2880 Mesa Verde Dr. E.); Retail Center 1500 Adams Av.; and School (1534 Adams Av.)		

DEVELOPMENT STANDARD COMPARISON

Development Standard

Required/Allowed

Proposed/Provided

Parking (On-Site - 1500/1538 Adams Ave.)	237 Spaces	192 Spaces*
Parking (Off-Site - 2880 Mesa Verde Dr. E.)	NA	90 Spaces
TOTAL	NA	282 Spaces
NA=Not Applicable or No Requirement		
*The site is legal nonconforming.		
CEQA Status:	Exempt (Class 1)	
Final Action:	Planning Commission	

BACKGROUND

The retail center in which Paul Mitchell Academy is located (1500 and 1534 Adams Avenue) was constructed in the early 1960's and is legal nonconforming with regard to the number of on-site parking spaces (192 spaces provided; 237 spaces required). The school, which is addressed as 1534 Adams Avenue, opened in 2000, replacing a former movie theater. The legal nonconforming on-site parking for the retail center, coupled with the parking restrictions imposed by the property owner, has created overflow parking onto nearby residential streets. The overflow parking has generated complaints from nearby residents and created a parking burden on the residential neighborhood. As a result, the applicant is requesting a conditional use permit to use 90 of the available 100 parking spaces at the nearby church¹.

The hearing, originally scheduled for the February 14, 2005 Commission meeting, has been continued several times to allow time to reach a consensus between Mr. Sparks, the owner of the retail center, the representatives of the Paul Mitchell Academy, and their respective attorneys, with regard to the recommended conditions of approval, and to allow a date when all parties would be available to attend the Planning Commission hearing.

DISCUSSION

The church parking is proposed to be used by the Paul Mitchell students between the hours of 8:30 a.m. to 11:00 p.m., Monday through Thursday, and 9:00 a.m. to 6:00 p.m. on Fridays and Saturdays; these hours will not conflict with the church's use of the parking lot for their activities. The building, which contains Paul Mitchell Academy, is over ¼ of a mile (approximately 1,400 feet) from the church parking lot.

In order to ensure the off-site parking is utilized staff is recommending, as a condition of approval (condition number 6), that the applicant require Paul Mitchell students to park in the off-site parking lot and to discipline students if they park illegally. Discipline will include fines, the towing of automobiles, suspension and ultimately dismissal of students who repeatedly violate the parking restrictions. A copy of the parking restrictions prepared by the applicant's attorney is attached to this report for reference. It is staff's opinion that the recommended conditions and restrictions will ensure that the off-site parking area is utilized by students. The recommended conditions of approval have been reviewed and agreed to by all parties associated with the project.

ALTERNATIVES

Staff has not considered, or is aware, of any reasonable alternatives to this request.

¹ The applicant originally requested the use of 50 off-site parking spaces at the church; however, the applicant has amended the request for a maximum of 90 off-site spaces so that the CUP would not need to be amended if more off-site spaces were needed in the future.

CONCLUSION

It is staff's opinion that the proposed church parking, with the recommended conditions of approval and restrictions proposed by the applicant, will minimize any parking problems on surrounding properties and use. Therefore, staff recommends approval of the request.

RECOMMENDATION

Approve, subject to conditions.

Attachments:

1. Draft Planning Commission Resolution
2. Exhibit "A" – Draft Findings
3. Exhibit "B" – Draft Conditions of Approval
4. Applicant's Project Justification Form
5. Letter from Applicant's Attorney and Exhibit "A" – Parking Enforcement
5. Zoning/Location Map
6. Plans and Photos

cc: Deputy. City Mgr. - Dev. Svs. Director
Sr. Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Steven Frost, President
Paul Mitchell - The Academy
1534 Adams Avenue
Costa Mesa, CA 92626

Patricia Bauer
First Church of Christ Scientist
2880 Mesa Verde Drive East
Costa Mesa, CA 92626

Luke Jacobellis
Chief Operating Officer
John Paul Mitchell Systems, Inc.
9701 Wilshire Blvd., Suite 1205
Beverly Hills, CA 90212

Winn Claybaugh, Dean
Paul Mitchell – The School
1534-A Adams Avenue
Costa Mesa, CA 92626

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Law Offices of Michaeline A. Re
1122 East Green Street
Pasadena, CA 91106

Tom Sparks, Partner
Sparks Enterprises, LP
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Newport Beach, CA 92660

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Costa Mesa, CA 92626-1998

File Name: 071105PA0426	Date: 062805	Time: 1:30 p.m.
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RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING CONDITIONAL USE
PERMIT PA-04-26**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Steven Frost, representing the Paul Mitchell Academy and Patricia Bauer of First Church of Christ Scientist, with regard to real property located at 2880 Mesa Verde Drive East, and Tom Sparks, with regard to real property located at 1500 and 1534 Adams Avenue, requesting approval of a conditional use permit to allow the use of 90 off-street parking spaces within the parking lot for First Church of Christ Scientist for students of the Paul Mitchell Academy at 1500 and 1534 Adams Avenue; and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 14, 2005, and ultimately continued to the meeting of July 11, 2005.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **APPROVES** Planning Application PA-04-26 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for PA-04-26. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 11th day of July, 2005.

Chair, Costa Mesa
Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on July 11, 2005, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

- A. The proposed use complies with Costa Mesa Municipal Code Section 13-29(e) because:
- The use is compatible and harmonious with uses that exist in the general neighborhood.
 - Safety and compatibility of the design of the building and other site features have been considered.
 - The project is consistent with the General Plan.
 - The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use, as conditioned, is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, overflow parking impacts on surrounding residential streets will be reduced because the applicant will be allowed to utilize the off-site parking spaces within the church parking lot, approximately ¼ of a mile from the school. Additionally, conditions of approval have been incorporated insuring that the off-site parking area is fully utilized to minimize parking impacts on surrounding properties. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL:**

- Plng. 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The applicant shall be responsible for enforcing the parking restrictions and the conditions of approval described herein. The church parking shall be used by the Paul Mitchell students between the hours of 8:30 a.m. to 11:00 p.m., Monday through Thursday, and 9:00 a.m. to 6:00 p.m. on Fridays and Saturdays. Any proposed operational change that significantly increases the off-site parking shall require approval of an amendment to this conditional use permit by the Planning Commission.
4. A land use restriction executed by and between the property owner of 1534 Adams Avenue and the City of Costa Mesa shall be recorded. The land use restriction shall state that the off-site parking area at 2880 Mesa Verde Drive East shall be limited to maximum of 90 parking spaces designated per the approved plan and that students shall be required to park in the spaces designated on the site so long as the school is in operation at 1534 Adams Avenue. Parking shall comply with all regulations per CMMC Section 13-96. The applicant shall submit to the Planning Division a copy of the legal description for the property, and either a lot book report or current title report identifying the current legal property owner so the document may be prepared.
5. The off-site parking shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant shall institute reasonably necessary measures to comply with this requirement, with the advise and consent of Planning staff.
6. Applicant shall require students to park in legal parking places, and shall offer, on a first come, first serve basis, free parking in the off-site parking lot which is the subject of this Conditional Use Permit. Applicant shall advise students and discipline them for parking illegally or disobeying the laws, regulations, or ordinances of the City of Costa Mesa. Discipline will include fines, the towing of automobiles, suspension and ultimately dismissal of students who repeatedly violate the parking restrictions or violate laws governing the City of Costa Mesa. Applicant will enforce

compliance with the laws and the restrictions of this Conditional Use Permit by the following:

- a. Requiring each student to read and agree to comply with all of the terms and conditions of the parking restrictions posted, the conditions of this agreement, conditions of the agreement between the Church and the Applicant, the restrictions on parking in the customer or faculty lot, or on any private property without the consent of the owner, and all of the laws of the City of Costa Mesa, including all of the City's parking ordinances and traffic laws, including, but not limited to, "jaywalking".
 - b. In addition to all of the penalties set forth in the laws of the City of Costa Mesa, the students will be advised, as a condition of their enrollment and continued attendance at Applicant's schools, the additional penalties set forth in Exhibit "A" - Parking Enforcement - to the student's parking advisement shall be strictly enforced.
 - c. Each student will be required to read, understand and initial each of the restrictions set forth in Exhibit "A"- Parking Enforcement - prior to enrollment.
 - d. Any violation shall be recorded in the student's permanent record and may be grounds to fine, suspend, or terminate the student found to be in violation. Such a finding may result in the student failing to graduate and/or be eligible to take the state licensing exam.
7. If parking shortages or other parking-related problems arise, the applicant shall meet and confer with the Planning staff to determine what reasonable necessary actions can be taken.
 8. The applicant shall defend, indemnify and hold harmless the City, its officials, and employees, against all damages, claims and legal actions for property damage or injuries to or death of any student(s), including attorney fees and costs, arising from, or caused by, person(s) crossing any streets to and from First Church of Christ Scientist at 2880 Mesa Verde Drive East to the Paul Mitchell Academy at 1500 and 1534 Adams Avenue for such damages as the City may be adjudged to be liable, excepting for active acts or omissions or negligence of the City or for matters within the sole control of the City unconnected with the applicant's activities. The parties will meet and confer to determine if there is a conflict of interest in having both parties represented by the same counsel, and if no conflict exists, the parties will mutually select and agree to the selection of counsel. If there is conflict, then each party shall select their own counsel selected with the approval of the applicant's insurance carrier.
 9. An indemnity agreement executed by the applicant and approved by the Risk Manager's office shall be provided to the City. Applicant will add the City to the current policy, which has the church as an additional insured, and allow the City's Risk Manager 10 days to object to the coverage upon receipt of a copy of the policy. Should the policy not meet with the City's risk Manager's approval, and said approval shall not be unreasonably withheld, parties shall meet and confer to determine if a policy can be

obtained that would meet with said approval.

10. Applicant will make a good faith effort to investigate and resolve any complaints concerning any violations of these operating conditions and restrictions concerning the use of the church parking lot. The parties agree that before any action they will meet and confer to resolve any such complaints.
11. Applicant shall comply with all federal, state and local laws applicable to the project.
12. Approval of the planning application is valid for one (1) year and will expire at the end of that period unless the use commences, or the applicant applies for and is granted an extension of time.

PLANNING DIVISION - CITY OF COSTA MESA
DESCRIPTION/JUSTIFICATION

Application #: p A - 0 4 - 2 6

Environmental Determination: EXEMPT

Address: 2880 MESA VUE DR. E

1. Fully describe your request:

CONDITIONAL USE PERMIT TO ALLOW PAUL MITCHELL STUDENTS OFF STREET PARKING AT THE FIRST CHURCH OF CHRIST SCIENTISTS AND REMOVE THEM FROM SURROUNDING RESIDENTIAL STREETS. PMTS WILL LEAVE 50 (FIFTY) PLUS SPACES IN THE CHURCH'S LOT WHICH MAINLY GOES UNUSED DURING THE HOURS OF PAUL MITCHELL USE.

2. Justification

- A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

THE PROPOSED USE IS IDENTICAL WITH THE USE PERMITTED FOR AND WILL NOT BE DETRIMENTAL, BUT BENEFICIAL TO OTHER PROPERTIES IN THE SAME AREA

- B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

3. This project is: (check where appropriate)

☐ In a flood zone. ☐ In the Redevelopment Area.
☐ Subject to future street widening. ☐ In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

☒ Is not included in the publication indicated above.

☐ Is included in the publication indicated above.

Signature

Date



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,
PLEASE CONTACT THE PLANNING DIV. AT (714)754-5245.**